

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

GRILLO’S PICKLES, INC., a Delaware  
Corporation,

Plaintiff,  
v.

PATRIOT PICKLE INC., a Delaware  
Corporation, ARKK FOOD COMPANY,  
a Michigan Corporation, and  
WAHLBURGERS I, LLC, a  
Massachusetts limited liability company,

Defendants.

Case No. 2:23-cv-00011-MCA-AME

**NOTICE OF DEFENDANTS ARKK FOOD COMPANY AND  
WAHLBURGERS I, LLC’S JOINDER AND ADOPTION OF  
DEFENDANT PATRIOT PICKLE INC’S MOTION TO DISMISS AND  
LOCAL RULE 7.1(d)(4) STATEMENT IN LIEU OF BRIEF**

Defendants ARKK Food Company (“ARKK”) and Wahlburgers I, LLC (“Wahlburgers”), hereby join and adopt Defendant Patriot Pickle Inc.’s (“Patriot”) Motion to Dismiss Plaintiff’s First Amended Complaint (the “Motion”) under Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6), filed on June 21, 2023 (ECF No. 61).

Patriot’s Motion: (1) seeks dismissal of Plaintiff’s damages claim under Fed. R. Civ. P. 12(b)(1) because Plaintiff fail to sufficiently allege that it suffered a concrete injury and, therefore, lacks standing; (2) seeks dismissal of Plaintiff’s claims regarding alleged GMO labelling under Fed. R. Civ. P. 12(b)(6) for failure to

adequately plead that Patriot “has made false or misleading statements as to [its] own product,” *Pernod Ricard USA, LLC v. Bacardi U.S.A., Inc.*, 653 F.3d 241, 248 (3d Cir. 2011); (3) seeks dismissal of Plaintiff’s claim for damages under Fed. R. Civ. P. 12(b)(6) because it does not satisfy the injury prong of a Lanham Act false advertising claim; and (4) seeks dismissal of Plaintiff’s New Jersey common-law unfair competition claims under Fed. R. Civ. P. 12(b)(6) because New Jersey does not recognize an unfair competition claim premised on false advertising. Plaintiff’s First Amended Complaint should be dismissed as against ARKK and Wahlburgers for the same reasons.

In accordance with L. Civ. R. 7.1(d)(4), ARKK and Wahlburgers state that no brief is necessary in support of their joinder to Patriot’s Motion because a separate brief would duplicate Patriot’s arguments, which are, instead, incorporated by reference. For the reasons explained in Patriot’s Motion and supporting brief, Defendants ARKK and Wahlburgers respectfully join and adopt Patriot’s request for dismissal of Grillo’s Pickles, Inc.’s First Amended Complaint.

Dated: June 21, 2023

Respectfully submitted,

**GENOVA BURNS LLC**

By: /s/ Lawrence Bluestone  
 LAWRENCE BLUESTONE  
 494 Broad Street  
 Newark, New Jersey 07102  
 973-533-0777

973-533-1112 (fax)  
lbluestone@genovaburns.com

**MCDONALD HOPKINS LLC**

Michael G. Latiff, Esq. (admitted *pro hac vice*)  
Mark Steiner, Esq. (admitted *pro hac vice*)  
39533 Woodward Avenue, Suite 318  
Bloomfield Hills, Michigan 48304  
(248) 220-1351

*Attorneys for Defendants ARKK Food Company  
and Wahlburgers I, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2023, a true and correct copy of the foregoing was electronically filed via the Court's CM/ECF system, which caused a copy of the foregoing to be served on all counsel of record for the parties.

/s/ Lawrence Bluestone  
Lawrence Bluestone